REMARKS

Applicant appreciates the Examiner's attention to the above referenced application. Reconsideration of the application is respectfully requested. Claims 1-28 were rejected. Claims 1-28 are now pending, of which claims 1, 10, 15 and 20 are independent.

I. Claim Rejections -35 USC § 102(b)

The Office Action has rejected 1-8 and 10-27 under 35 U.S.C. § 102(b) as being as being anticipated by Nemirovsky et al., US Patent No. 6,389,449 B1 (hereinafter Nemirovsky). However, the Office Action has failed to meet its burden of makings a prima facie case of anticipation for the claims, and such rejections should be withdrawn.

"[F]or anticipation under 35 U.S.C. 102, the reference must teach *every aspect* of the claimed invention ..." MPEP 706.02 (emphasis added). "The identical invention must be shown *in as complete detail as contained in the ... claim.*" *Richardson v., Suzuki Motor Co.*, 868 F. 2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989) (emphasis added). Nemirovsky simply fails to disclose every aspect of the inventions claimed in Claims 1-8 and 10-27. The Examiner has therefore failed to meet his burden of making a prima facie case of anticipation.

Nemirovsky does not disclose, teach nor suggest " in response to a first logical processor in the plurality of processors being scheduled to enter an idle state due to lack of scheduling tasks, making a processor execution resource previously reserved for the first logical processor available to any of the plurality of logical processors" (Claim 1, in part). Nor does Nemirovsky disclose, teach nor suggest "make a processor execution resource previously reserved for the first processor available to a second processor in the plurality of processors in response to the first logical processor being scheduled to enter an idle state due to lack of scheduling tasks " (Claim

10, in part). Nor does Nemirovsky disclose, teach nor suggest "make a processor execution resource previously reserved for the first processor available to a second processor in the plurality of processors in response to the first logical processor being scheduled to enter an idle state due to lack of scheduled tasks" (Claim 15, in part). Nor does Nemirovsky disclose, teach nor suggest "in response to a first logical processor in the plurality of logical processors being scheduled to enter an idle state due to lack of scheduled tasks" (Claim 20, in part). A prima facie case of anticipation has thus not been made with respect to Claims 1, 10, 15, or 20 and Claims 1, 10, 15 and 20 should therefore be allowed.

The Office Action asserts that the elements of Claims 1, 10, 15 and 20 quoted above are found at Col. 9, lines 49-53 of Nemirovsky. The cited lines of Nemirovsky state that "any one active stream may manipulate its own resource allocation and priority according to its needs, which will relate closely to the nature of the thread running in the stream, and the nature of other threads available to run or actually running in other streams." "Manipulate its own resource allocation and priority" is not the same as "being scheduled to enter an idle state due to lack of scheduling tasks." The identical invention must be shown *in as complete detail as contained in the ... claim." Richardson v., Suzuki Motor Co.,* 868 F. 2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989) (emphasis added). This requirement has not been met, and therefore a prima facie case of anticipation has not been made out with respect to Claim 1, Claim 10, Claim 15 nor Claim 20. For at least this reason, Claims 1, 10, 15 and 20 are allowable. In addition, Claims 2-9, which depend from Claim 1, are also allowable. In addition, Claims 11-14, which depend from Claim 10, are also allowable. In addition, Claims 16-19, which depend from Claim 15, are also allowable. In addition, Claims 21-28, which depend from Claim 20, are also allowable.

The prima facie case of anticipation is further insufficient because it has failed to show "logical processors" as claimed by each of the independent claims. The Office Action asserts that Nemirovsky streams and contexts are synonymous, and that contexts are logical processors. The Office Action states: "[t]he processor has a plurality of contexts (called streams), which are logical processors." This statement is legally conclusory and factually erroneous.

Nemirovsky states that "[f]or purposes of definition, this specification regards a stream in reference to a processing system as a hardware capability of the processor for supporting and processing an instruction thread. " [Nemirovsky, Col. 1, lines 65-66] Nemriovsky further states that "a thread context is **associated with** an active stream by a register file." [Nemirovsky, Col. 1, lines 65-66, emphasis added] A context is associated with a stream; they are not the same thing. Furthermore, a context is not a logical processor. Thus, the prima facie case is flawed. The prima facie case of obviousness has failed to show "logical processors" as claimed by each of the independent claims. For at least this reason, Claims 1, 10, 15 and 20 are allowable. In addition, Claims 2-9, which depend from Claim 1, are also allowable. In addition, Claims 11-14, which depend from Claim 10, are also allowable. In addition, Claims 16-19, which depend from Claim 15, are also allowable. In addition, Claims 21-28, which depend from Claim 20, are also allowable.

35 USC § 103 Rejection of the Claims

Claims 9 and 28 were rejected under 35 U.S.C § 103(a) as being unpatentable over Nemirovsky. Claim 9 depends from Claim 1. Claim 28 depends from Claim 20. For the reasons set forth above, a prima facie case of anticipation has not been made with respect to Claims 1 and 20. There are aspects of these claims that Nemirovsky does not suggest, show or teach. Claims 9 and 29 are therefore allowable for at least the reasons set forth above. The rejections should be withdrawn.

CONCLUSION

Applicants respectfully request reconsideration in view of the remarks and amendments set forth above. If the Examiner has any questions, the Examiner is encouraged to contact the undersigned at (512) 263-1250. Please charge any shortage of fees in connection with the filing of this paper, including extension of time fees, to Deposit Account 50-0221 and please credit any excess fees to such account.

Respectfully submitted,

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